

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Lupardus*, Slip Opinion No. 2009-Ohio-5860.]

NOTICE

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SLIP OPINION NO. 2009-OHIO-5860

THE STATE OF OHIO, APPELLEE, v. LUPARDUS, APPELLANT.

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Appeal dismissed as improvidently accepted.

(No. 2008-2487 — Submitted October 20, 2009 — Decided November 10, 2009.)

APPEAL from the Court of Appeals for Washington County, No. 08CA31,
2008-Ohio-5960.

{¶ 1} The cause is dismissed, sua sponte, as having been improvidently accepted.

PFEIFER, LUNDBERG STRATTON, O’CONNOR, and O’DONNELL, JJ., concur.

MOYER, C.J., and LANZINGER and CUPP, JJ., would affirm the judgment of the court of appeals on the authority of *State v. Geeslin*, 116 Ohio St.3d 252, 2007-Ohio-5239, 878 N.E.2d 1.

Roland W. Riggs III, Marietta Law Director, and Mark C. Sleeper, Assistant Law Director, for appellee.

SUPREME COURT OF OHIO

Timothy Young, Ohio Public Defender, and Sarah M. Schregardus, Assistant Public Defender, for appellant.

Richard Cordray, Attorney General, Benjamin C. Mizer, Solicitor General, Kimberly A. Olson, Deputy Solicitor, and Jeffrey R. Loeser, Assistant Solicitor, urging affirmance for amicus curiae Ohio Attorney General.

D. Timothy Huey; and Lyons & Lyons Co., L.P.A., and Jeffrey C. Meadows, urging reversal for amicus curiae Ohio Association of Criminal Defense Lawyers.
